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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,089	07/18/2005	Hans-Joachim Weinand	OST-041371	8834

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EXAMINER	
LAMB, BRENDA A	

ART UNIT	PAPER NUMBER
1734	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/507,089	WEINAND, HANS-JOACHIM	
	Examiner	Art Unit	
	Brenda A. Lamb	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *8/16/2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/18/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/507,090 in view of 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Sugane et al 2001/0019004.

Copending Application No. 10/507,090 teaches a system for treating articles, comprising: a plurality of treatment containers, in which the articles may be acted upon in each case by a treatment liquid; a feed device, by means of which the articles are conveyed through the system and in the process are dipped successively into the treatment containers, the feed device comprising at least one feed carriage which in turn comprises: running gear movable along the path of motion of the articles; at least one swivel arm coupled to the running gear; a holding or supporting device coupled to

the swivel arm for at least one article and, mutually independently actuable drives for translational movement, the swivelling of the at least one swivel arm and of the holding device. Copending Application No. 10/507,090 fails to claim that the system includes at least two treatment containers and these containers are disposed one immediately downstream of the other without the interposition of a dripping zone. However, it would have been obvious to modify Copending Application No. 10/507,090 apparatus to provide at least treatment tanks to carry out the treatment process and arrange the at least treatment tanks such that they are disposed one immediately downstream of the other without the interposition of a dripping zone for the obvious to minimize the space requirements of the apparatus since Sugane et al shows arranging the two treatment tanks to carry out two steps of a treatment process and arrange the cited tanks of the dipping apparatus directly adjacent without the interposition of a dripping zone obviously to minimize space requirements of the apparatus. Thus claim 1 is obvious over the above cited references.

This is a provisional obviousness-type double patenting rejection.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Sugane et al 2001/0019004.

Sugane et al teaches a system for treating articles, comprising: a plurality of treatment containers, in which the articles may be acted upon in each case by a treatment liquid; a feed device, by means of which the articles are conveyed through the system and in the process are dipped successively into the treatment containers, the feed device comprising at least one feed carriage which in turn comprises: running gear (elements 7-8) movable along the path of motion of the articles; at least one swivel arm 5 coupled to the running gear; a holding or supporting device 6 coupled to the swivel arm for at least one article and, mutually independently actuable drives for translational movement, the swivelling of the at least one swivel arm and of the holding device (driving means for the rollers 7 for providing translational movement of the carrier as disclosed at column 9 lines 26-30; and driving system, a motor for driving the rotation or swiveling of the swivel arm and holding device); and wherein at least two treatment containers disposed one immediately downstream of the other without the interposition of a dripping zone as shown in Figure 17. Thus Sagane et al teaches every element of the claimed system for treating articles.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO-02-053482.

WO '482 teaches a system for treating articles, comprising: a plurality of treatment containers, in which the articles may be acted upon in each case by a treatment liquid; a feed device, by means of which the articles are conveyed through the system and in the process are dipped successively into the treatment containers, the feed device comprising at least one feed carriage which in turn comprises: running gear movable along the path of motion of the articles; at least one swivel arm 41a, 43b coupled to the running gear; a holding or supporting device 6 coupled to the swivel arm for at least one article and, mutually independently actuable drives for translational movement, the swivelling of the at least one swivel arm and of the holding device. WO'482 fails to teach that the at least two treatment containers are disposed one immediately downstream of the other without the interposition of a dripping zone. However, it would have been obvious to modify WO '482 apparatus such that treatment tanks 2,3 are disposed one immediately downstream of the other without the interposition of a dripping zone for the obvious to minimize the space requirements of the apparatus. Thus claim 1 is obvious over WO '482.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO-02-053482 in view of Sugane et al 2001/0019004.

WO '482 is applied for the reasons noted above but fails to teach that the at least two treatment containers are disposed one immediately downstream of the other without the interposition of a dripping zone. However, it would have been obvious to modify WO '482 apparatus such that treatment tanks 2,3 are disposed one immediately downstream of the other without the interposition of a dripping zone since Sugane et al shows arranging the treatment tanks of a dipping apparatus directly adjacent without the interposition of a dripping zone obviously to minimize space requirements of the apparatus. Thus claim 1 is obvious over the above cited references.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda A. Lamb whose telephone number is (571) 272-1231. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday with alternate Wednesdays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Tucker, can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brenda A Lamb
Examiner
Art Unit 1734